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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,007	11/21/2001	Judith C. Clark	4812.100	9546

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EXAMINER

SPERTY, ARDEN B

ART UNIT PAPER NUMBER

1771

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/989,007

**Applicant(s)**

CLARK, JUDITH C.

**Examiner**

Arden B. Sperty

**Art Unit**

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 89-97 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 89-97 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date 11/10/2005.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**NON-FINAL OFFICE ACTION**

1. Applicant's Request for Continued Examination (RCE), dated 8/31/05, has been entered and carefully considered. Claims 1-7, 14, 21-34, 43, 51-52 remain withdrawn. New claims 89-97 are examined as being drawn to the previously elected invention, a coupling apparatus with a tying element. The previously stated rejections are rendered moot, since the rejected claims have all been canceled. The references cited in those rejections are not seen to apply to the invention as presently claimed. Therefore, new claims 89-97 are rejected herein.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 97 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The structure intended by claim 97 is unclear. The examiner is unable to ascertain where said slits are located, how many openings are present, and what is meant by "angular disposed relative to said first slit." The claim is not examined because the intended structure is not at all intelligible.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 89-97 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5676250 to Walters.

6. The Walters reference teaches, and shows in Figures 5 and 6, a substantially planar semi-rigid backer 16 having openings through which the tying element 40 is inserted. The ornamental item, which is the light string 12, is secured by the tying element. The opposite side of the backing element 16 is provided with hook or loop fastener material having a first surface abutting the backing element 16, and a second surface to be removeably engaged to a mating portion of hook or loop fastener. The hook or loop fastener attached to the light string may be removeably attached to a mating piece of hook and loop fastener 38. The mating piece of hook and loop fastener has a first surface abutting the object to which the light string is to be attached, such as along a roof line for outdoor decoration (see Figure 5) or to a cylinder for storage (see Figure 1), and a second engageable surface that engages the second surface of the first fastener.

7. Regarding claim 91 and 92, the examiner takes official notice that a variety of Velcro constructions are well-known in the art, including “plastic” backing materials such as polymer fabrics, and that it would have been obvious to determine and use a thickness to provide adequate support for the hook and loop elements. Absent a showing of unexpected results with the claimed materials and thickness, Applicant does

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not appear to have claimed anything beyond what is known in the fields of material and textile engineering.

8. Regarding claim 94, the ultimately intended ornamental item does not effect the structure of the fastener itself. Therefore, although the reference teaches attachment of a light string, as opposed to the items listed in claim 94, the structural limitations are met and would not be any different if any of the items of claim 94 were used instead of a light string. Thus it can be seen that the ultimate intended uses of claim 94 do not provide patentable distinction to the attachment mechanism.

9. Regarding claim 96, it has been held that altering shapes and sizes requires only routine skill in the art, and does not provide patentable distinction absent a showing that the modification actually changes the way the item functions. In the present situation, changing the shapes of the holes through the backer does not change the way the backer functions, therefore no patentable distinction is provided.

### ***Response to Arguments***

10. A response to Applicant's arguments is not necessary since the arguments pertain to prior rejections which have since been rendered moot in view of the claim amendments.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arden B. Sperty whose telephone number is (571)272-1543. The examiner can normally be reached on M-Th, 08:00-16:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571)272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arden B. Sperty  
Examiner  
Art Unit 1771

November 10, 2005



TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700